

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MARIA GARCIA,

Plaintiff,

v.

HAPPY HOURS BAR & GRILL, INC.;  
ANTHONY LING; AND DOES 1 to 10,  
Defendants.

Case No.: 2:23-cv-07784-MEMF-MAR

**ORDER DECLINING TO EXERCISE  
SUPPLEMENTAL JURISDICTION OVER  
PLAINTIFF'S STATE LAW CLAIMS**

Before the Court is the Response to the Court's Order to Show Cause Regarding Supplemental Jurisdiction filed by Plaintiff Maria Garcia. ECF No. 11. For the reasons stated herein, the Court **DECLINES** to exercise supplemental jurisdiction over the California state law claims and **DISMISSES** the claims.

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1       **I. Background**

2               **A. Factual Background<sup>1</sup>**

3               Plaintiff Maria Garcia (“Garcia”) suffers from advanced multiple sclerosis and requires a  
4 wheelchair while traveling in public. Compl. ¶ 1. Defendants Happy Hours Bar & Grill, INC.;  
5 Anthony Ling; and Does 1 to 10 are, or were at the time of the incident, the real property owners,  
6 business operators, lessors, and/or lessees of the real property for a bar and restaurant (“Business”) located at or about 42142 50<sup>th</sup> St. W., Quartz Hill, California. *Id.* ¶ 2.

8               In or about June 2023, Garcia went to the Business. *Id.* ¶ 10. She encountered barriers in  
9 doing so. *Id.* ¶ 12. The Business does not have a parking space designated for persons with  
10 disabilities, nor does it have signage indicating such a space with the International Symbol of  
11 Accessibility, signage warning others not to park in the designated space, proper paint on the ground  
12 for such a space, proper van accessibility for such a space, or an access aisle with an accessible  
13 ramp. *Id.* ¶ 13. These issues deny Garcia the full and equal access to the Business and deter him from  
14 visiting the business. *Id.* ¶ 14.

15               **B. Procedural History**

16               On September 18, 2023, Garcia filed a complaint against Happy Hours Bar & Grill, INC.;  
17 Anthony Ling; and Does 1 to 10, asserting: (1) a claim for injunctive relief arising out of an alleged  
18 violation of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101, *et seq.*; (2) a claim for  
19 damages pursuant to California’s Unruh Civil Rights Act (“Unruh Act”), Cal. Civ. Code §§ 51–53,  
20 *et seq.*; (3) a claim for damages pursuant to the California Disabled Persons Act, Cal. Civ. Code §§  
21 54, *et seq.*; (4) a claim for damages and injunctive relief based on California Health and Safety Code  
22 § 19955, *et seq.*; (5) a claim for damages for negligence. *See generally* Compl. On February 20,  
23 2024, the Court ordered Garcia to show cause as to why the Court should exercise supplemental  
24 jurisdiction over her state law claims. ECF No.10 (“OSC”). Garcia filed a response on March 5,  
25 2024. Response, ECF No. 11 (“Resp.”).

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28       <sup>1</sup> The factual allegations included in this section are taken from the Complaint. ECF No. 1 (“Compl.”). The Court makes no finding on the truth of these allegations and includes them only as background.

## 1 II. Applicable Law

### 2 A. Supplemental Jurisdiction

3 42 U.S.C. § 1367 “reflects the understanding that, when deciding whether to exercise  
 4 supplemental jurisdiction, ‘a federal court should consider and weigh in each case, and *at every*  
 5 *stage of the litigation*, the values of judicial economy, convenience, fairness, and comity.’” *City of*  
 6 *Chicago v. Int’l Coll. of Surgeons*, 522 U.S. 156, 173 (1997) (emphasis added) (quoting *Carnegie-*  
 7 *Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988)). A district court has supplemental jurisdiction  
 8 over “all other claims that are so related to claims in the action within such original jurisdiction that  
 9 they form part of the same case or controversy under Article III of the United States Constitution.”  
 10 28 U.S.C. § 1367(a). However, district courts have the discretion to decline to exercise supplemental  
 11 jurisdiction if:

- 12 (1) The claim raises a novel or complex issue of State law;
- 13 (2) The claim substantially predominates over the claim over which the district  
 court has original jurisdiction;
- 14 (3) The district court has dismissed all claims over which it has original  
 jurisdiction; or
- 15 (4) In exceptional circumstances, there are other compelling reasons for  
 declining jurisdiction.

16  
 17 *Id.* § 1367(c). A district court declining supplemental jurisdiction pursuant to the section  
 18 1367(c)(4)’s “exceptional circumstances” provision must satisfy a two-part inquiry: (1) the “district  
 19 court must articulate why the circumstances of the case are exceptional within the meaning of §  
 20 1367(c)(4)”; and (2) “in determining whether there are compelling reasons for declining jurisdiction  
 21 . . . the court should consider what best serves the principles of economy, convenience, fairness, and  
 22 comity which underlie the pendent jurisdiction doctrine.” *Vo v. Choi*, 49 F.4th 1167, 1171 (9th Cir.  
 23 2022) (internal quotation marks omitted) (quoting *Arroyo v. Rosas*, 19 F.4th 1202, 1210 (9th Cir.  
 24 2021) (describing the inquiry)).

### 25 B. The ADA and Unruh Act

26 The ADA prohibits discrimination “on the basis of disability in the full and equal enjoyment  
 27 of the goods, services, facilities, privileges, advantages, or accommodations of any place of public  
 28 accommodation by any person who owns, leases (or leases to), or operates a place of public

1 accommodation.” 42 U.S.C. § 12182(a). Only injunctive relief is available under the ADA. *See*  
2 *Wander v. Kaus*, 304 F.3d 856, 858 (9th Cir. 2002).

3 The Unruh Act entitles all people within California, regardless of their disability “to the full  
4 and equal accommodations, advantages, facilities, privileges, or services in all business  
5 establishments of every kind whatsoever.” Cal. Civ. Code § 51(b). Under the Unruh Act, a violation  
6 of the ADA constitutes a violation of § 51 of the Unruh Act. *See id.* § 51(f). And although the Unruh  
7 Act also permits injunctive relief, unlike the ADA, it also allows for recovery of monetary damages.  
8 It entitles plaintiffs to actual damages for each offense “up to a maximum of three times the amount  
9 of actual damage but in no case less than four thousand dollars.” *Id.* § 52(a). “The litigant need not  
10 prove she suffered actual damages to recover the independent statutory damages of \$4,000.” *Molski*  
11 *v. M.J. Cable, Inc.*, 481 F.3d 724, 731 (9th Cir. 2007).

12 Under the Unruh Act, all persons in California, “no matter what their . . . disability . . . are  
13 entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all  
14 business establishments of every kind whatsoever.” Cal. Civ. Code § 51(b). The Unruh Act and the  
15 ADA go hand-in-hand—a violation of the ADA is automatically a violation of the Unruh Act. *Vo*, 49  
16 F.4th at 1169 (citing *Arroyo*, 19 F.4th at 1204). However, unlike the ADA, the Unruh Act allows for  
17 recovery of monetary damages for every offense “up to a maximum of three times the amount of  
18 actual damage but in no case less than four thousand dollars (\$4,000).” Cal. Civ. Code § 52(a).

19 Further, California law sets forth a heightened pleading standard for lawsuits brought under  
20 the Unruh Act. *See* Cal. Civ. Proc. Code §§ 425.55(a)(2) & (3). The stricter pleading standard  
21 requires certain plaintiffs bringing construction-access claims like the one in the instant case to file a  
22 verified complaint alleging specific facts concerning the plaintiff’s claim, including the specific  
23 barriers encountered or how the plaintiff was deterred and each date on which the plaintiff  
24 encountered each barrier or was deterred. *See id.* § 425.50(a). A “high-frequency litigant fee” of  
25 \$1,000 is also imposed on certain plaintiffs and law firms bringing these claims. *See* Cal. Gov’t  
26 Code § 70616.5. A “high-frequency litigant” is “a plaintiff who has filed 10 or more complaints  
27 alleging a construction-related accessibility violation within the 12-month period immediately  
28 preceding the filing of the current complaint alleging a construction-related accessibility violation”

1 *and* “an attorney who has represented as attorney of record 10 or more high-frequency litigant  
 2 plaintiffs in actions that were resolved within the 12-month period immediately preceding the filing  
 3 of the current complaint alleging a construction-related accessibility violation.” Cal. Civ. Proc. Code  
 4 §§ 425.55(b)(1) & (2). High frequency litigants are also required to state: (1) whether the complaint  
 5 is filed by, or on behalf of, a high-frequency litigant; (2) in the case of a high-frequency litigant who  
 6 is a plaintiff, the number of complaints alleging construction-related accessibility claim filed by the  
 7 high-frequency litigant during the 12 months prior to filing the instant complaint; (3) the reason the  
 8 individual was in the geographic area of the defendant’s business; and (4) the reason why the  
 9 individual desired to access the defendant’s business.” *See id.* § 425.50(a)(4)(A).

### 10 **III. Discussion**

11 In the Order to Show Cause, the Court ordered Garcia to show cause in writing why the  
 12 Court should exercise supplemental jurisdiction over her California Unruh Civil Rights Act claim,  
 13 California Disabled Persons Act claim, California Health and Safety Code claim, and negligence  
 14 claim. *See* 28 U.S.C. § 1367(c). Further, the Court ordered Garcia to identify the amount of statutory  
 15 damages she seeks to recover and provide all facts necessary for the Court to determine if Garcia and  
 16 Garcia’s counsel satisfy the definition of a “high-frequency litigants” as provided by California Code  
 17 of Civil Procedure §§ 425.55(b)(1) & (2). The Court finds Garcia’s state law claims unsuitable for  
 18 supplemental jurisdiction within the meaning of section 1367(c)(4).

#### 19 **A. The Court declines to exercise supplemental jurisdiction over the state law** 20 **claims.**

21 In the OSC, the Court ordered Garcia to “identify the amount of statutory damages” sought  
 22 under the Unruh Act and include declarations “providing all facts necessary” for the Court to  
 23 determine whether Garcia and Garcia’s counsel satisfy the definition of a “high-frequency litigant”  
 24 as provided by California Code of Civil Procedure §§ 425.55(b)(1) & (2). OSC at 2.

##### 25 i. Garcia qualifies as a high frequency litigant.

26 In the response to the Court’s OSC, Garcia states that she has filed no more than ten  
 27 complaints alleging a construction-related accessibility violation within the 12-month period  
 28 immediately preceding the filing of the current complaint. ECF No. 11-2. However, Garcia’s counsel

1 conceded that their law firm “likely qualifies as a high-frequency litigant” and failed to provide facts  
 2 prior to Garcia’s complaint from which the Court could determine whether Garcia’s counsel satisfies  
 3 the definition of a high-frequency litigant under Cal. Civ. Proc. Code §§ 425.55(b)(2); *see* ECF No.  
 4 11-1.

5 Therefore, in state court, Garcia would not only be obligated to pay the \$1,000 high-  
 6 frequency litigant fee but would also be required to meet the heightened pleading standard and allege  
 7 specific facts relating to her claim. Although Garcia alleges that she “is deterred from visiting the  
 8 Business,” She has not set forth the allegations required by the heightened pleading standard—  
 9 namely, she fails to disclose in her complaint that the complaint was filed by or on behalf of a high-  
 10 frequency litigant, state the number of construction-related accessibility complaints she filed within  
 11 the 12 months prior to filing the instant complaint, or explain why she was in the geographic area of  
 12 the Business. *See* Compl.

13 The California legislature has determined that requiring Garcia and other high frequency  
 14 litigants to meet this heightened pleading standard would serve California’s interest in preventing  
 15 continued abuse of the Unruh Act by high-frequency litigants. *Arroyo*, 19 F.4th at 1206–07. It is  
 16 therefore appropriate in view of the *Gibbs* values of judicial economy, convenience, fairness to  
 17 litigants, and comity to decline supplemental jurisdiction so that Garcia may comply with the  
 18 requirements and California’s interest in curtailing abuse can be vindicated. *See United Mine*  
 19 *Workers of Am. v. Gibbs*, 383 U.S. 715, 726–27 (1966).

20 ii. Garcia’s state law claims predominate over the federal ADA claim.

21 Garcia asserts five claims: one federal law claim and four state law claims. *See generally*  
 22 Compl. Of these four claims, Garcia seeks damages and injunctive relief in connection with his state  
 23 law claims and, as prescribed by statute, only seeks an injunction in connection with his ADA claim.  
 24 *See id.*

25 A district court may dismiss state law claims without prejudice if a state law claim  
 26 “substantially predominates” over a federal claim “in terms of proof, of the scope of the issues raised  
 27 or of the comprehensiveness of the remedy sought.” *Gibbs*, 383 U.S. at 726–27. Indeed, the Unruh  
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1 Act entitles plaintiffs to a minimum award of \$4,000 for each violation of the Act. Cal. Civ. Code §  
2 52(a).

3 The Court finds that Garcia’s state law claims predominate over the federal law ADA claim.  
4 Garcia seeks “all appropriate damages, including but not limited to statutory damages, general  
5 damages and treble damages in amounts, according to proof,” and as such, any potential monetary  
6 damages awarded predominate over the injunctive relief sought on the ADA claim. Compl. at  
7 Prayer.

8 iii. Given the comity concerns expressed by the Ninth Circuit, exceptional  
9 circumstances exist to justify declining exercise of supplemental jurisdiction.

10 In the Ninth Circuit, to qualify as “exceptional circumstances” under section 1367(c)(4), the  
11 circumstances at hand “should be ‘quite unusual’ and should not rest ‘solely’ on routinely occurring  
12 conditions such as ‘docket congestion.’” *Arroyo*, 19 F.4th at 1211 (quoting *Ex. Software N. Am., Inc.*  
13 *v. U.S. Dist. Ct. for Cent. Dist. of Cal.*, 24 F.3d 1545, 1558, 1560 n.15 (9th Cir. 1994)). The Ninth  
14 Circuit has held that in the context of joint ADA-Unruh Act claims, the specific legislative apparatus  
15 surrounding the Unruh Act and the ADA meets the “exceptional circumstances” threshold. *Vo*, 49  
16 F.4th at 1170 (citing *Arroyo*, 19 F.4th at 1213). Specifically, the California Legislature created the  
17 Unruh Act to give plaintiffs seeking an injunction under the ADA the additional option of pursuing  
18 monetary damages. *Arroyo*, 19 F.4th at 1211–12. The Unruh Act “relies dispositively on the ADA’s  
19 substantive rules [and] expands the remedies available in a private action” to include monetary  
20 damages. *Id.* at 1211. The California legislature became concerned that “high-frequency litigants  
21 may be using the statute to obtain monetary relief for themselves without accompanying adjustments  
22 to locations to assure accessibility to others.” *Id.* But rather than adjust the language of the statute,  
23 the California Legislature opted to impose filing restrictions on potential litigants, making it “very  
24 unattractive” for litigants seeking monetary relief to file joint ADA-Unruh Act claims in state court.”  
25 *Id.* at 1211–12. However, as these restrictions do not apply in federal court, they have been rendered  
26 “largely toothless,” causing a “wholesale shifting of Unruh Act/ADA cases into the U.S. District  
27 Court for the Central District of California.” *Id.* As the Ninth Circuit concluded, because this evasion  
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1 of the Legislature’s limitations would both be unfair to defendants and constitute “an affront to the  
 2 comity between federal and state courts,” it rises to the level of “exceptional circumstances” under  
 3 section 1367(c)(4). *Vo*, 49 F.4th at 1171. The plaintiff asserts that “there is nothing unique in the  
 4 state court procedures that are not replicated in some fashion in the federal system,” Response at 10,  
 5 but the Ninth Circuit considered both systems and determined otherwise. *See Vo*, 49 F.4th at 1170-  
 6 1171.

7 Here, the circumstances in this case meet the “exceptional” threshold. As previously  
 8 discussed, Garcia and/or her counsel qualify as high-frequency litigants. Further, given the “unique  
 9 configuration of laws in this area” that have given rise to concerns regarding fairness and the comity  
 10 between federal and state courts, exercising supplemental jurisdiction over Garcia’s Unruh Act claim  
 11 results in the same evasion of the California state legislature’s filing restrictions. *Id.*

12 Moreover, as discussed above, Garcia’s four state law claims predominate over the single  
 13 federal law claim. Thus, extending supplemental jurisdiction over the Unruh Act would run afoul of  
 14 principles of federal-state comity.

15 iv. As this case is in its nascent stages, there are compelling reasons for declining  
 16 supplemental jurisdiction.

17 Given that the first prong is satisfied, this Court must proceed to the second prong and  
 18 consider “what best serves the principles of economy, convenience, fairness, and comity which  
 19 underlie the pendent jurisdiction doctrine.” *Id.* at 1171 (internal quotation marks omitted) (quoting  
 20 *Arroyo*, 19 F.4th at 1210).

21 This case is still in its early stages—the initial complaint was filed on September 18, 2023,  
 22 and the Defendants have not yet appeared. Accordingly, *Vo* does not dictate that the Court retain  
 23 jurisdiction. *Compare id.* at 1172 (concluding that because “[t]he district court here declined  
 24 supplemental jurisdiction over *Vo*’s Unruh Act claim well before it ruled on the merits of the ADA  
 25 claim,” there is “no reason to hold that the district court abused its discretion in determining there  
 26 were compelling reasons to decline jurisdiction over the Unruh Act claim”), *with Arroyo*, 19 F.4th at  
 27 1215–16 (“If the district court had declined supplemental jurisdiction over *Arroyo*’s Unruh Act  
 28 claim at the *outset* of the litigation, it might then still have been possible to further California’s



1 interest in cabining Unruh Act damages claims through the imposition of heightened *pleading*  
2 requirements and a substantial up-front filing fee.”).

3 Accordingly, the Court DECLINES to exercise supplemental jurisdiction over Garcia’s state  
4 law claims. The Court therefore DISMISSES the Unruh Act claim, California Disabled Persons Act  
5 claim, the California Health and Safety Code, and the negligence claim WITHOUT PREJUDICE.

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7 IT IS SO ORDERED.

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9 Dated: April 2, 2024



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10 MAAME EWUSI-MENSAH FRIMPONG

11 United States District Judge  
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